

~~Title 10—DEPARTMENT OF
NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits~~

10 CSR 20-6.010 Construction and Operating Permits Strawman, 10-4-2012

PURPOSE: This rule sets forth the requirements and process of application for construction and operating permits, and the terms and conditions for the permits. This rule also clarifies the requirements of the permit program, improves its administration, and brings the program in compliance with the latest federal regulations, 44 FedReg 32.854 (1979).

(1) Permits—General.

(A) All persons who build, erect, alter, replace, operate, use, or maintain existing point sources, or intend these actions for a proposed point source, water contaminant sources, or wastewater treatment facilities shall apply to the department for the permits required by the Missouri Clean Water Law and these regulations. The department issues these permits in order to enforce the Missouri Clean Water Law and regulations and administer the National Pollutant Discharge Elimination System (NPDES) Program.

(B) The following are exempt from permit regulations:

1. Nonpoint source discharges;
2. Service connections to wastewater sewer systems;
3. Internal plumbing and piping or other water diversion or retention structures within a manufacturing or industrial plant or mine, which are an integral part of the industrial or manufacturing process or building or mining operation. An operating permit or general permit shall be required, if the piping, plumbing, or structures result in a discharge to waters of the state;
4. Routine maintenance or repairs of any existing sewer system, wastewater treatment facility, or other water contaminant or point source;
5. Single family residences;
6. The discharge of water from an environmental emergency cleanup site under the direction of, or the direct control of, the Missouri Department of Natural Resources or the Environmental Protection Agency (EPA), provided the discharge shall not violate any condition of 10 CSR 20-7.031 Water Quality Standards;
7. Water used in constructing and maintaining a drinking water well and distribution system for public and private use, geologic test holes, exploration drill holes, groundwater monitoring wells, and heat pump wells;
8. Small scale pilot projects or demonstration projects for beneficial use, that do not exceed a period of one (1) year, may be exempted by written project approval from the permitting authority. The department may extend the permit exemption for up to one (1) additional year. A permit application shall be submitted at least ninety (90) days prior to the end of the demonstration period if the facility intends to continue operation, unless other-wise exempted under this rule or Chapter 6; and
9. The application of pesticides in order to control pests (e.g., any insect, rodent, nematode, fungus, weed, etc.) in a manner that is consistent with the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Missouri Pesticide Use Act unless such application is made directly into or onto waters of the state, in which case the applicator shall obtain a permit.

(C) Nothing shall prevent the department from taking action, including the requirement for issuance of any permits under the Missouri Clean Water Law and regulations, if any of the activities exempted under subsection (1)(B) should cause pollution of waters of the state or otherwise violate the Missouri Clean Water Law or these regulations.

(2) Applications.

(A) An application for, or for renewal of, a construction permit or operating permit shall be made on forms (see 10 CSR 20-6.090) provided by the department. The applications may be supplemented with copies of information submitted for other federal or state permits. The application shall include a one inch equals two thousand feet (1" = 2000') scale (or larger) map showing the location of all outfalls, as well as a flowchart indicating each process which contributes to an outfall. Each application must be accompanied by the appropriate permit fee. Alternate scale maps are allowed upon the request of the applicant and approval of the Department of Natural Resources.

(B) All applications must be signed as follows:

1. For a corporation, by an individual having responsibility for the overall operation of the regulated facility or activity, such as the plant manager, or by an individual having overall responsibility for environmental matters at the facility;

2. For a partnership or sole proprietorship, by a general partner or the proprietor respectively;
or

3. For a municipal, state, federal, or other public facility, by either a principal executive officer or by an individual having overall responsibility for environmental matters at the facility.

(C) All other reports required by the department shall be signed by a person designated in subsection (2)(B) of this rule or a duly authorized representative, if—

1. The representative so authorized is responsible for the overall operation of the facility from which the discharge occurs; and

2. The authorization is made in writing by a person designated in subsection (2)(B) of this rule and is submitted to the director.

(D) Any changes in the written authorization which occur after the issuance of a permit shall be reported to the department by submitting a new written authorization which meets the requirements of subsection (2)(C).

(3) Continuing Authorities.

(A) All applicants for construction permits or operating permits shall show, as part of their application, that a permanent organization exists which will serve as the continuing authority for the operation, maintenance, and modernization of the facility for which the application is made. Construction and first-time operating permits shall not be issued unless the applicant provides such proof to the department and the continuing authority has submitted a statement indicating acceptance of the facility.

(B) Continuing authorities which can be issued permits to collect and/or treat waste-water under this regulation are listed in preferential order in the following paragraphs. An applicant may utilize a lower preference continuing authority by submitting, as part of the application, the following information; 1) a written statement from the higher authority declining the offer to accept management of the additional wastewater, 2) a diagram that clearly illustrates that the collection system operated by a higher preference authority is beyond two-thousand feet (2000') from the proposed facility, 3) a proposed connection or adoption charge by the higher authority that would be one hundred twenty percent (120%) or more of the applicant's cost of constructing or operating an individual system, 4) a proposed service fee on the users of the system by the higher authority that is above two percent (2%) of the average median household income of existing homeowners in that area, or 5) terms for connection or adoption by the higher authority that would require more than two (2) years to achieve full sewer service~~a statement waiving preferential status from each existing higher preference authority, providing the service by a lower preference authority~~ ~~waiver~~ does not conflict with any area-wide management plan approved under section 208 of the Federal Clean Water Act or any other regional sewage service and treatment plan approved for the higher preference authority by the department:

1. A municipality or public sewer district which has been designated as the area-wide management authority under section 208(c)(1) of the Federal Clean Water Act;

2. A municipality, public sewer district, or sewer company regulated by the Public Service Commission (PSC) which currently provides sewage collection and/or treatment services on a regional or watershed basis as outlined in 10 CSR 20-6.010(3)(C) and approved by the Clean Water Commission. Permits shall not be issued to a continuing authority regulated by the PSC until the authority has obtained a certificate of convenience and necessity from the PSC;

3. A municipality, public sewer district, or sewer company regulated by the PSC other than one which qualifies under paragraph (3)(B)1. or 2. of this rule or a public water supply district. Permits shall not be issued to a continuing authority regulated by the PSC until the authority has obtained a certificate of convenience and necessity from the PSC;

4. Any person, or group of persons contractually obligated to collectively act as a wastewater collection and treatment service, or nonprofit company organized under Section 393.825, RSMO., with complete control of, and responsibility for, the water contaminant source, point source, or wastewater treatment facility and all property served by it. The person may constitute a continuing authority only by showing that the authorities listed under paragraphs (3)(B)1.-3. of this rule are not available, do not have jurisdiction, are forbidden by statute or ordinance from providing service to the person or, if available, have submitted written waivers as provided for in subsection (3)(B) of this rule; and

5. An association of property owners served by the wastewater treatment facility, provided the applicant shows that—

A. The authorities listed in paragraphs (3)(B)1.-3. of this rule are not available or that any available authorities have submitted written waivers as provided for in subsection (3)(B);

B. The association owns the facility and has valid easements for all sewers;

C. The document establishing the association imposes covenants on the land of each property owner which assures the proper operation, maintenance, and modernization of the facility including at a minimum:

(I) The power to regulate the use of the facility;

(II) The power to levy assessments on its members and enforce these assessments by liens on the properties of each owner;

(III) The power to convey the facility to one (1) of the authorities listed in paragraphs (3)(B)1.-3.; and

(IV) The requirement that members connect with the facility and be bound by the rules of the association; and

D. The association is a corporation in good standing registered with the Office of the Missouri Secretary of State.

(C) The department will review the planning, design, construction, and designation of watershed or regional sewage works. Where development is insufficient to warrant immediate construction of facilities for the entire watershed or region, interim facilities for a portion of the area shall be authorized as long as the design is compatible with 10 CSR 20-8, Design Guides. The department shall condition permits for these interim discharges so they will be eliminated upon the availability of watershed or regional facilities. At such time as watershed or regional facilities become available, and to the extent their capacity is sufficient, any existing subregional treatment works and/or lift stations shall be taken out of service and the tributary waste flows diverted into the watershed or regional facilities. A Regional Sewage Service and Treatment Plan shall be developed by all affected political jurisdictions and submitted to the department. Staff will review the plan and submit recommendations to the Clean Water Commission. The Clean Water Commission may approve, require changes, deny the plan, and/or hold public hearings related to approval of the plan.

(D) Industries, including electric cooperatives and mining operations, are by definition continuing authorities for collection and treatment of industrial type wastewater and incidental domestic wastewater associated with their operation when an authority listed in paragraph (3)(B)1. or 2. is infeasible.

(E) Private corporations which are not incorporated under the laws of the state of Missouri shall be represented by a registered agent in the state of Missouri before a construction permit or an operating permit will be issued by the department.

4.—(F)If a municipality, public sewer district, or sewer company regulated by the Public Service Commission (PSC) wishes to provide sewage collection and/or treatment services on a regional or watershed basis as outlined in 10 CSR 20-6.010(3)(C), the entity shall:

1. Development of a Capital Improvements Project

2. Development and local approval of ordinances providing authority to connect facilities to manage wastewater flows

3. Conduct public meetings and hearing within the potentially affected watershed

4. Present a request to the Clean Water Commission for approval

5. Other suggestions?

(4) Construction Permits.

(A) **Applicability**

No person shall cause or permit the construction, installation, or modification of any sewer system or of any water contaminant source, point source, or wastewater treatment facility without first receiving a construction permit issued by the department except for the following:

1. Construction of a separate storm sewer; and

2. Facilities as provided in other 10 CSR 20-6 regulations.

3. Sewer extensions, by entities covered under 10 CSR 20-6.010(6)

4. Repair or replacement of equipment

5. Relocation of outfall

6. Inflow and infiltration work

7. Minor piping changes and other modifications. Minor modifications include, but are not limited to, small sections of buried wastewater lines, normal repair or replacement of existing wastewater lines, installation of manholes, wet wells, and other changes that do not significantly impact the normal operation of the waste management system.

8. Stormwater control structures covered under 10 CSR 20-6.200(1)(B)1-11

Antidegradation may still be required for items exempted above when the discharge is to a new location, is an upgrade of existing treatment plant or may result in an expansion of design flows.

(B) A separate application for each sewer system, water contaminant source, point source, or wastewater treatment facility must be submitted to the department. Where there are multiple releases from a single operating location, however, one (1) application may cover all facilities and releases. For continuing authorities listed in paragraph (3)(B)1. or 2. only one (1) application may be required when the authority operates a sewage treatment plant and has one (1) or more other noncontinuous storm water-related discharges associated with the sewage treatment plant.

(C) An application for a construction permit must be submitted to the department at least one hundred eighty (180) days in advance of the date on which construction begins. Requests for a shorter time for a review of a wastewater treatment facility may be made but must be accompanied by a detailed statement of the justification for the request. No such statement is required when the application is only for the construction of sewers.

(D) An application shall consist of the following items:

1. Unless not required by the department, an engineering report shall be submitted by an engineer and shall contain the information required by 10 CSR 20-8.020 and 10 CSR 20-8.110–10 CSR 20-8.220. If the report includes a wastewater treatment facility, it shall include consideration of the feasibility of constructing and operating a facility which will have no discharge to waters of the state (see section (12) of this rule). Unless the department specifies otherwise, this report will be reviewed and necessary changes made before the plans and specifications in paragraph (4)(D)2. will be reviewed;

2. Detailed plans and specifications shall be submitted by an engineer and shall contain the information required in 10 CSR 20-8.020 and 10 CSR 20-8.110–10 CSR 20-8.220 or other regulations as applicable;

3. An application form and permit fee;

4. A one inch equals two thousand feet (1" = 2000') scale map (or larger) showing the location of all outfalls (alternate scale maps are allowed upon the request of the applicant and approval of the Department of Natural Resources);

5. Other information necessary to determine compliance with the Missouri Clean Water Law and these regulations as required by the department; and

6. If a construction permit is waived by the department, or not required, the information in paragraphs (4)(D)1.–5. may be required with application for the operating permit.

7. An applicant may submit a request a waiver to begin the following activities. However, the granting of the waiver does not eliminate the need for the construction permit as required by (4)(A)-(D) :

a. Earthwork as site preparation (clearing and grubbing activities)

b. Construction of sidewalks, administrative buildings

c. Other suggestions?

(E) If an application is incomplete or otherwise deficient, the applicant shall be notified of the deficiency and processing of the application may be discontinued until the applicant has corrected all deficiencies. The department will act after receipt of all documents and information necessary for a properly completed application, including appropriate filing fees and other supporting documents as necessary, by either issuing a notice of operating permit pending, issuing the construction permit, or denying the permit. The director in writing, shall give the reasons for a denial to the applicant. Applicants who fail to satisfy all department comments after two (2) certified department comment letters in a time frame established by the department shall have the application returned as incomplete and the construction fees shall be forfeited. The applicant has the right to request that the time frames be extended when additional time is needed. The request must occur within the established time frame, it must be in writing and the department will grant reasonable time extensions.

(F) A notice of permit pending is a statement that the department intends to issue an operating permit. ~~The department will issue the public notice of a pending new operating permit for a wastewater treatment facility before it issues the construction permit for the wastewater treatment facility.~~ This allows the public an opportunity for comment prior to the construction of a wastewater treatment facility. A public notice will not be required prior to the issuance of a construction permit

for a sewer collection system. ~~If a construction permit for a new wastewater treatment facility is not issued within one (1) year of the date of the notice of permit pending, a new notice of permit pending will be issued.~~ 1. This subsection shall apply to applications in which an antidegradation review was conducted by the Department, as well as applications for wastewater treatment plant modifications and upgrades. The Department may waive the construction permit public notice period for installation of disinfection equipment or for other improvements that were required under a compliance schedule, provided that final effluent limitations were determined during a renewal of an operating permit. A Public notice of an antidegradation review for a proposed wastewater treatment project will suffice for the construction permitting public notice requirement if it was conducted within three (3) years from the issuance date of the antidegradation determination.

2. Notification in writing. A final determination, of whether the construction permit should be approved, approved with conditions, or denied, shall be provided in writing to the applicant by the permitting authority within 180 days shall notify the applicant in writing of the final determination. The Department shall published the proposed construction permit along with the antidegradation review or a final operating permit for upgrade or modification on the Department webpage unless the department waives the public notice requirement under subsection (1).

(G) Construction permits shall expire ~~one-two~~(+2) years from the date of issuance unless the permittee applies for an extension. The department shall extend construction permits, upon written request thirty (30) days prior to expiration, showing that there have been no substantial changes in the original project and file. ~~only one (1) time. An applicant for this extension shall show that there have been no substantial changes in the original project and file for extension thirty (30) days prior to expiration.~~ When a construction permit is issued for a project for which the construction period is known in advance to require longer than ~~one-two~~(+2) years from the date of issuance, the department may issue a permit allowing a period of time greater than ~~one-two~~(+2) years upon a showing by the applicant that the period of time is necessary and that no substantial changes in the project will be made without notifying the department. If there are changes, the department may require the applicant to apply for a new construction permit. Construction permits may be issued for a period of less than ~~one-two~~(+2) years when appropriate.

(H) Issuance of a construction permit does not constitute a guarantee by the department that the finished water contaminant source, point source, or wastewater treatment facility will meet specified effluent limitations.

(I) The applicant shall provide the department with evidence the local planning and zoning agency has been notified of the project and must update the department on the status of any action by the local planning and zoning agency.

(5) Operating Permits.

(A) Persons who build, erect, alter, replace, operate, use, or maintain any water contaminant source, point source, or waste-water treatment facility which discharges to waters of the state shall obtain an operating permit from the department before any discharge occurs. The operating permit shall be issued to the owner/operator. Nondischarging facilities for the treatment or disposal of wastes, wastewater, or residuals shall obtain permits as provided in 10 CSR 20-6.015. Persons who intend to discharge in accordance with section (14) of this rule are permitted by rule and may discharge without additional written approval from the department.

(B) Applications for an original operating permit for a facility that had a valid construction permit and a prior public notice shall be received by the department at least thirty (30) days before the facility begins to receive wastewater. Applications shall include the earliest date on which the discharge is scheduled to begin. The department will issue or deny the permit within sixty (60) days of receipt of the application. No facility shall discharge without a valid operating permit.

(C) Applications for the renewal of operating permits or for operating permits for facilities that did not require construction permits must be received at least one hundred eighty (180) days either before the expiration date of the present operating permit or the date the facility begins to receive wastewater.

(D) The department shall require that an engineer certify in writing by means of submitting the Statement of Work Completed form that the project has been completed in accordance with ~~its~~ the approved plans and specifications. ~~A municipal official who has the responsibility for the operation and maintenance of the completed facility and knowledge of the construction may submit the certification to the department.~~ A representative of the department may inspect the completed work in order to determine that the completed work substantially adheres to the approved plans and specifications and to the Missouri Clean Water Law and Clean Water Commission regulations.

(E) The department shall specify in each operating permit the concentration, weight, or both, of each contaminant which may be released.

(6) Sewer Extensions.

(A) Persons who construct sewers tributary to a system operated by one (1) of the continuing authorities listed in paragraphs (3)(B)1. or (3)(B)2. will be exempt from the construction permit requirements for sewers if the continuing authority administers a permit program which has been approved by the department.

1. In order to obtain approval of its permit program the continuing authority must submit a written request. The request must include an account of the procedures to be followed in approving the construction of sewers by others and for handling the design of sewers to be built by its own staff or contractors. The request must include at least the following:

A. Standard specifications and typical appurtenance construction details to which all construction will be required to adhere;

B. A showing that the applicant will engage or employ a sufficient number of professional engineers and other staff qualified to review plans, issue permits, prepare reports, inspect construction, and enforce local and state requirements for each sewer extension;

C. A showing that the applicant will engage or employ a sufficient number of persons qualified to supervise construction or that the applicant has enforceable ordinances which require construction supervision and subsequent certification by a Missouri professional engineer; and

D. A showing that the applicant will maintain permanent plans of all sewers constructed and maintain records of sewer extension approvals and reports.

2. The department will review the application for approval and may ask for additional information if necessary to determine compliance with the Missouri Clean Water Law and these regulations. Approval may be granted for a period of up to five (5) years in the applicant's operating permit.

(B) Upon completion of construction ~~and certification by,~~ the engineer in accordance with subsection (5)(D), shall submit the Statement of Work Completed form. ~~owners or operators of sanitary sewer systems or extensions for which construction permits were issued shall apply for a letter of authorization for operation.~~ The system or extension then shall be considered as a part of the treatment facility to which it is tributary for permit purposes.

~~(7) Schedules of Compliance.~~

~~(A) Permits may contain schedules of compliance requiring the permittee to take specific steps to achieve expeditious compliance with applicable standards and limitations and other requirements. Schedules of compliance shall require compliance as soon as practicable, but in no case later than an applicable statutory deadline.~~

~~(B) If any permit allows a time for achieving final compliance from the date of permit issuance, the schedule of compliance in the permit shall set forth interim requirements and the dates for their achievement.~~

~~(C) Within fourteen (14) days following each interim date and the final date of compliance, the permittee shall provide the department with written notice of the permittee's compliance or noncompliance with the interim or final requirement for the dates.~~

~~(D) The department may modify a schedule of compliance in an issued permit upon request and a showing of justification by the applicant. In no case shall the compliance schedule be modified to extend beyond an applicable statutory treatment deadline.~~

(8) Terms and Conditions of Permits.

(A) The following shall be incorporated as terms and conditions of all permits:

1. All discharges and sludge disposal shall be consistent with the terms and conditions of the permit;
2. The permit may be modified or revoked after thirty (30) days' notice for cause including, but not limited to, the following causes:
 - A. A violation of any term or condition of the permit;
 - B. A misrepresentation or failure to fully disclose all relevant facts in obtaining a permit;
 - C. A change in the operation, size, or capacity of the permitted facility; and
 - D. The permit may be modified after proper public notice and opportunity for comment when a wasteload allocation study has been completed showing that more stringent limitations are necessary to protect the in-stream water quality;
3. The permit may not be modified so as to extend the term of the permit beyond five (5) years after its issuance;
4. Permittees shall operate and maintain facilities to comply with the Missouri Clean Water Law and applicable permit conditions and regulations. Operators or supervisors of operations at regulated wastewater treatment facilities shall be certified in accordance with 10 CSR 20-9.020(2) and any other applicable state law or regulation. Operators of other wastewater treatment facilities, water contaminant source, or point sources, upon request of the department, shall demonstrate that wastewater treatment equipment and facilities are effectively operated and maintained by competent personnel;
5. For the purpose of inspecting, monitoring, or sampling the point source, sludge, water contaminant source, or wastewater treatment facility for compliance with the Clean Water Law and these regulations, authorized representatives of the department shall be allowed by the permittee, upon presentation of credentials and at reasonable times, to—
 - A. Enter upon permittee's premises in which a point source, water contaminant source, or wastewater treatment facility is located or in which any records are required to be kept under terms and conditions of the permit;
 - B. Have access to, or copy, any records required to be kept under terms and conditions of the permit;
 - C. Inspect any monitoring equipment or method required in the permit;
 - D. Inspect any collection, treatment, or discharge facility covered under the permit; and
 - E. Sample any wastewater or sludge at any point in the collection system or treatment process;
6. If the permit is for a discharge from a publicly-owned treatment works, the permittee shall give notice to the department of any new introduction of pollutants or any substantial change in the character or volume of nondomestic pollutants already being introduced. Notice shall include:
 - A. The origin, quality, and quantity of pollutants to be introduced into the publicly-owned treatment works; and
 - B. Any anticipated impact on the quality and quantity of the effluent to be discharged or on the quality or quantity of the sludge to be disposed of by the treatment works;
7. If the permit is for a discharge from a publicly-owned treatment works, the permittee shall be able to identify any introduction of pollutants or substances into the facility that alone or in combination will cause—disruption of the treatment processes, violation of effluent standards as defined in their operating permit, violation of water quality standards in the receiving stream as defined in 10 CSR 20-7.031, or classification of the residues of the treatment processes as hazardous waste as defined in 10 CSR 25-4.010. In addition, the permittee shall require any industrial user of the treatment works to comply with the requirements of 10 CSR 20-6.100;
8. If a toxic effluent standard, prohibition, or schedule of compliance is established under Section 307(a) of the Federal Clean Water Act for a toxic pollutant in the discharge of permittee's facility and the standard is more stringent than the limitations in the permit, then upon notice to the permittee the more stringent standard, prohibition, or schedule shall be incorporated into the permit as one (1) of its conditions;
9. Facility expansions, production increases, or process modifications which will result in a new or substantially different discharge or sludge characteristics must be reported sixty (60) days before the facility or process modification begins. Notification may be accomplished by application for a new permit, or if the discharge does not violate effluent limitations specified in the permit, by submission of notice to the department of the changed discharge; and
10. When a continuing authority under paragraph (3)(B)1. or 2. is expected to be available for connection within the next five (5) years, any operating permit issued to a permittee under this paragraph, located within the service area of the paragraph (3)(B)1. or 2. facility, shall contain the following special condition: The tributary wastewater flow shall be connected to the continuing authority listed in paragraph (3)(B)1. or 2. within ninety (90) days of notice of

availability by the continuing authority. The permittee shall obtain departmental approval for closure or alternate use of these facilities.

(B) The permit shall contain effluent limitations and monitoring requirements. Other terms and conditions shall be incorporated into permits if the department determines they are necessary to assure compliance with the Clean Water Law, related regulations or policies of the Missouri Clean Water Commission.

(9) Prohibitions. No permit shall be issued in the following circumstances:

(A) Where the terms and conditions of the permit do not comply with applicable guidelines or requirements, the Missouri Clean Water Law and Clean Water Commission regulations or the Federal Clean Water Act and federal regulations;

(B) Where the EPA regional administrator has properly objected to the issuance of a permit by the director;

(C) Where the permit conditions cannot ensure compliance with the applicable water quality requirements of all other affected states;

(D) Where, in the judgment of the secretary of the army acting through the appropriate district engineer, anchorage and navigation would be substantially impaired;

(E) For the discharge of any radiological, chemical, or biological warfare agent or high level radioactive waste;

(F) For any discharge from a point source inconsistent with a plan or plan amendment approved under Section 208(b) of the Federal Clean Water Act; or

(G) To a facility which is a new source or a new discharger, if the discharge from the construction or operation of the facility will—

1. Cause or contribute to the violation of water quality standards if the point of discharge is located in a segment that was an effluent limitation segment, prior to the introduction of the discharge from the new source or new discharger; or

2. Exceed its pollutant load allocation if the discharge is into a water quality limited segment.

(10) Operating Permit Renewal and Expiration Dates.

(A) The first operating permit issued to new sources and new dischargers will be issued for a period of time sufficient only to allow the completion of construction of the facility, but not to exceed five (5) years, but not less than one (1) year. When all construction has been completed, the first operating permit may be issued for a period not to exceed five (5) years.

(B) Whenever a release or a potential for release from a point source, water contaminant source, or wastewater treatment facility is permanently eliminated, the existing operating permit will be terminated upon verification by the department.

(C) Where a person has the permit responsibility for more than one (1) wastewater treatment facility, water contaminant source, or point source involving more than one (1) operating permit, the department may combine the billings by issuing all operating permits with the same expiration date. Each facility shall continue to operate under and be governed by the separate provisions of each individual permit.

(D) When a check used for an application fee is returned to the department as nonnegotiable, review of the application shall cease and the applicant be notified. No further action shall be taken on the application until the fees have been resubmitted in the form of a cashier's check or money order payable to the state of Missouri.

(E) Continuation of Expiring Permits.

1. The terms and conditions of an expired permit are continued automatically pending issuance of a new permit if—

A. The permittee has submitted a timely and sufficient application for a new permit under this rule; and

B. The department is unable, through no fault of the permittee, to issue a new permit before the expiration date of the previous permit.

2. Permits continued under paragraph (10)(E)1. remain fully effective and enforceable.

(11) Permits Transferable.

(A) Subject to section (3), a construction permit and/or operating permit may be transferred upon submission to the department of an application to transfer signed by the existing owner and/or continuing authority and the new owner and/or continuing authority. Until the time the permit is officially transferred, the original permittee remains responsible for complying with the terms and conditions of the existing permit. To receive a transfer permit, the new owner and/or continuing authority must complete an application and demonstrate to the department that the new organization is permanent and will serve as the continuing authority for the operation, maintenance, and modernization of the facility. The new owner and/or continuing authority shall be responsible for complying with the terms and conditions of the permit upon transfer.

(B) The department, within thirty (30) days of receipt of the application, shall notify the new applicant of its intent to revoke and reissue or transfer the permit.

(12) Closure of Treatment Facilities.

(A) Persons who cease operation or plan to cease operation of waste, wastewater, and sludge handling and treatment facilities shall close the facilities in accordance with a closure plan approved by the department.

(B) Operating permits under section (5) of this rule or under 10 CSR 20-6.015 are required until all waste, wastewater, and sludges have been disposed of in accordance with the closure plan approved under subsection (12)(A) of this rule.

(13) General Permits.

(A) The director may issue a general permit in accordance with the following:

1. The general permit shall be written to cover a category of discharges described in the permit except those covered by individual permits within a geographic area. The area shall correspond to existing geographic or political boundaries, such as—

A. Designated planning areas under Sections 208 and 303 of the Federal Clean Water Act;

B. City, county, or state political boundaries, or special sewer districts chartered by the state;

C. State highway systems; and

D. Any other appropriate division or combination of boundaries; and

2. The general permit shall be written to regulate a category of point sources if the sources all—

A. Involve the same or substantially similar types of operations;

B. Discharge the same types of wastes;

C. Require the same effluent limitations or operating conditions;

D. Require the same or similar monitoring; and

E. Are controlled more appropriately, in the opinion of the director, under a general permit than under individual permits.

(B) General permits may be issued, modified, revoked, and reissued or terminated in accordance with applicable requirements of this regulation. To be included under a general permit, a permittee must submit an application on forms supplied by the department.

(C) The director may require any person authorized by a general permit to apply for and obtain an individual operating permit. Any interested person may petition the director to take action under this subsection. Cases where an individual operating permit may be required include, but are not limited to, the following:

1. The discharge(s) is a significant contributor of pollution which impairs the beneficial uses of the receiving stream;

2. The discharger is not in compliance with the conditions of the general operating permit; and

3. A Water Quality Management Plan containing requirements applicable to these point sources is approved.

(D) Any owner/operator authorized by a general permit may request to be excluded from the coverage of the general permit by applying for an individual permit. As indicated in section (2), the owner/operator shall submit, to the director, an application with reasons supporting the request. The request shall be granted by issuing any individual permit if the reasons cited by the owner/operator are adequate to support the request.

1. When an individual operating permit is issued to an owner/operator otherwise subject to a general operating permit, the applicability of the general permit to the individual operating permittee is terminated automatically on the effective date of the individual permit.

2. A source excluded from a general permit solely because it already has an individual permit may request that the individual permit be revoked and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply to the source. The source shall be included under the general permit only if it meets all the requirements for coverage under the permit.

(14) Permit by Rule. ~~The department shall petition the Clean Water Commission to reopen this rule for public review and comment on a five- (5-) year interval.~~

(A) Hydrostatic Testing. Persons discharging water used for the hydrostatic testing of new petroleum-related oil and gas pipelines and storage tanks in the state of Missouri may discharge to waters of the state without first obtaining a permit if the discharge is *de minimis* (less than one thousand (<1,000) gallons) or the person takes the following steps:

1. Notification. The owner/operator must notify the department in writing of its intent to conduct hydrostatic test discharge(s) under this rule at least thirty (30) days prior to the first such discharge. This requirement may be met by a one- (1-) time annual notification. Notice shall specify the source of water to be used in the hydrotest and shall identify the location(s) of the pipeline(s) and/or tank(s) to be tested.

2. Filing fee. Persons who intend to discharge in accordance with section (14) of this rule must pay a filing fee as required by Section 644.052 RSMO of ~~twenty five dollars (\$25)~~ to the department with their notification above.

3. Discharge limits. The discharge must meet the following limits: <10 mg/l total petroleum hydrocarbons, <100 mg/l total suspended solids, and equal to or between 6.05 and 9.50 standard units pH.

4. Sampling and testing requirements. One (1) grab sample shall be taken per discharge during the first sixty (60) minutes of the discharge. The sample shall be analyzed for the pollutants limited by this rule. Sampling and analysis shall be performed in accordance with 10 CSR 20-7.015(9)(A). Total discharge volume shall be documented for each hydrostatic test discharge.

5. Analytical report. The owner/operator of the pipeline(s) and/or storage tank(s) on which the hydrostatic tests are performed shall submit an annual report summarizing each discharge, including date, time, test location, analytical results, and total discharge volume, in gallons, by October 28, of each year.

6. Exception reporting. If any of the sampling results from the hydrostatic test discharge show any violations of the following discharge limitations, written notification shall be made to the department within five (5) days of notification of analytical results. Notification shall indicate the date(s) of sample collection, the analytical results, and a statement concerning the revisions or modifications in management practices that are being implemented to address the violation of the limitation that occurred.

A. <10 mg/l total petroleum hydrocarbons.

B. <100 mg/l total suspended solids.

C. pH equal to or between 6.05 and 9.50 standard pH units.

7. General requirement. The hydrostatic testing water shall not contain dyes or have a visible sheen indicating the presence of petroleum products.

8. Any person who irrigates wastewater from a hydrostatic test may do so under this rule if the notification, filing fee, and annual reporting requirements of paragraphs (4)(A)1., 2., and 4. are met and the irrigation does not result in any discharge to waters of the state. The quality of the irrigated wastewater is not required to meet the limits stated in paragraph (14)(A)6. of this rule.

9. The quality of wastewater from a hydrostatic test that is discharged directly to the Mississippi or Missouri Rivers must meet the limits stated in paragraph (14)(A)6. of this rule with the exception of pH which shall be within a range between 6-6.5 and 10-10.0.

(B) The department may require a permit for these discharges if it determines that requiring a permit may better protect the quality of waters of the state.

(C) The person(s) discharging under this rule may apply for a permit at any time.

(D) This rule does not supersede nor eliminate liability for compliance with county and other local ordinances.

(E) Persons discharging under this rule are not required to obtain a separate permit to construct and operate an oil-water separator to aid in meeting limits for hydrostatic wastewater.

(F) The department shall maintain records open to the public on all persons claiming coverage under permit by rule. Appeals of permits in accordance with 10 CSR 20-6.020(6) may be received by the department up to thirty (30) days from the date the department received notice from the discharger.

AUTHORITY: sections 640.710 and 644.026, RSMo 2000. Original rule filed June 6, 1974, effective June 16, 1974. Rescinded: Filed Oct. 16, 1979, effective July 10, 1980. Readopted: Filed Feb. 4, 1980, effective July 11, 1980. Amended: Filed Sept. 8, 1981, effective Feb. 11, 1982. Amended: Filed Nov. 10, 1982, effective May 12, 1983. Amended: Filed Sept. 11, 1984, effective March 12, 1985. Amended: Filed Feb. 1, 1988, effective June 13, 1988. Amended: Filed Sept. 13, 1988, effective Feb. 14, 1989. Amended: Filed July 15, 1991, effective Jan. 13, 1992. Amended: Filed March 1, 1996, effective Nov. 30, 1996. Amended: Filed Nov. 3, 1997, effective July 30, 1998. Amended: Filed May 15, 2003, effective Jan. 30, 2004. Amended: Filed May 12, 2008, effective Feb. 28, 2009. Amended: Filed March 16, 2009, effective Dec. 30, 2009. Emergency amendment filed July 14, 2011, effective Oct. 31, 2011, expired April 27, 2012. Amended: Filed July 14, 2011, effective April 30, 2012.*

**Original authority: 640.710, RSMo 1996 and 644.026, RSMo 1972, amended 1973, 1987, 1993, 1995, 2000.*

Op. Atty. Gen. No. 53, Lafser (1-26-79). *The point source discharges of pollutants from federal facilities within the state of Missouri are subject to the same NPDES program requirements as are any other point source discharges of pollutants subject to the Missouri Clean Water Law and regulations.*

Op. Atty. Gen. No. 156, Wilson (8-18-76). *The initial responsibility for issuing Clean Water Commission permits under section 204.051, RSMo Supp. 1975 rests with the director of the Department of Natural Resources acting in his/her capacity of administering Department of Natural Resources programs relating to environmental control and executing policies established by the Clean Water Commission.*